

Opinion No. 75-05

January 29, 1975

BY: OPINION OF TONEY ANAYA, Attorney General

TO: Richard A. Griscom General Counsel Health & Social Services Department P. O. Box 2348 Santa Fe, New Mexico 87503

QUESTIONS

QUESTIONS

1. Is the tax credit/or refund established by § 72-15A-11.1, NMSA, 1953 a credit or refund of sales tax, or is it a modified negative income tax?
2. Is there any way of determining how much of the credit or refund established by § 72-15A-11.1, NMSA, 1953 is attributable to taxes paid on food?

CONCLUSION

1. See analysis.
2. See analysis.

OPINION

{*37} ANALYSIS

1. The comprehensive tax credit provided for in § 72-15A-11.1 is a credit or direct refund of a portion of the property tax and gross receipts tax imposed on low income families and individual residents. The credit has nothing to do with income tax other than the utilization of the income tax form and processing system to refund a portion of the gross receipts and property taxes. The refund is not a modified negative income tax.
2. The portion of the low income tax credit attributable to a rebate of taxes paid on food will vary from family to family. Families with incomes low enough to qualify for the low income tax credit certainly spend most of their income on food and shelter. The low income tax credit is a rebate of a portion of all state and local taxes paid during the year based on studies of average consumer expenditures by income level, by family size. The rebate of taxes paid should in no way be considered as income in the period when the low income tax credit is received.